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## BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

AFFORDABLE BUSINESS & CONTRACTOR  
INSURANCE AGENCY, INC.

1010 E. Jefferson  
Phoenix, AZ 85034  
License No. 90583

**STIPULATION  
&  
ORDER**

Docket No. 2005-030 LC

Enf. Case No. 1575

### STIPULATION

1. Respondent, Affordable Business & Contractor Insurance Agency, Inc., is a licensed insurance agency in the State of Utah, holding License No. 90583.
2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:
  - a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
  - b. Respondent admits the Findings of Fact and Conclusions made therefrom;
  - c. Respondent stipulates to the summary entry of the Order herein which shall be

in lieu of other administrative proceedings by Complainant in this matter; and

d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.

3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.

4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.

6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for the purpose of disposition of the matter entitled herein.

DATED this 3 day of March, 2005.

Robert C. Bowman

AFFORDABLE BUSINESS & CONTRACTOR  
INSURANCE AGENCY, INC.  
Robert Bowen, President

Perri Ann Bakalis

UTAH INSURANCE DEPARTMENT  
~~M. Gale Lemmon~~, Assistant Attorney General  
Perri Ann Bakalis

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

### **FINDINGS OF FACT**

1. During the period of about March 2003 through March 2004, agents of the Respondent in the State of Utah issued no fewer than 99 certificates of insurance evidencing the existence of insurance when policies were never issued.
2. Respondent failed to keep clear and accurate records for its operations in the State of Utah that would facilitate an audit.
3. Respondent's agents in the State of Utah accepted cash payments for the issuance of insurance policies and kept the cash and issued personal checks in exchange for the payments, and mailed insurance payments to Arizona instead of depositing the funds into a trust account by the close of the next business day.
4. Respondent failed to adequately supervise the daily operation of its agents in the State of Utah to assure compliance with the requirements of the Utah Insurance Code and Rules.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

### **CONCLUSIONS OF LAW**

1. The actions of the agents of the Respondent were the actions of the Respondent as the Respondent's agents were acting within their scope of authority.
2. In issuing certificates of insurance evidencing the existence of insurance when no policies had been issued, Respondent violated Utah Code Annotated § 31A-23a-402(1)(a)(i).
3. In failing to keep records of its operations in the State of Utah in a manner that would

facilitate an audit, Respondent violated Utah Administrative Code Rule R590-170-7(6).

4. In allowing its agents to accept cash payments and issue their personal checks in place thereof, and by mailing insurance payments to Arizona instead of depositing payments into a trust account by the close of the next business day, Respondent violated Utah Code Annotated § 31A-23a-409(1)(b)(i) and -409(1)(d).

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

### **ORDER**

#### **IT IS HEREBY ORDERED:**

1. Respondent is assessed an administrative forfeiture in the amount of \$10,000.00. The amount of \$9,000.00 is hereby suspended pending the successful completion of the probation imposed herein. The balance of said forfeiture shall be paid within 30 days of the date of this Order.

2. Respondent's insurance agency license is placed on probation for a period of 24 months beginning with the date of this Order. The terms of probation are as follows:

- a. Respondent shall pay portion of the forfeiture assessed herein that has not been suspended in a timely manner.
- b. Respondent shall continue to audit their accounts and contacting their clients to determine if any premiums were paid where a policy was not issued.
- c. Respondent shall immediately report to department personnel any additional problems uncovered during their audit.
- d. Respondent shall file with department personnel a written report at least semi-annually regarding their activities in the State of Utah and the results of their auditing activities.


- e. Respondent shall have no further violations of the Utah Insurance Code or Rules or of any order of the commissioner.

**NOTIFICATION**

Respondent is hereby notified that failure to abide by the terms of this Order may subject you to further penalties, including additional forfeitures of up to \$5,000.00 per violation and the suspension or revocation of your license, and the filing of an action to enforce this Order in the District Court, which may impose penalties of up to \$10,000.00 per day for continued violation.

DATED this 16<sup>th</sup> day of March, 2005.

D. KENT MICHIE  
INSURANCE COMMISSIONER

  
MARK E. KLEINFELD, Esq.

Administrative Law Judge  
Utah Insurance Department  
State Office Building, Room 3110  
Salt Lake City, Utah 84114  
Telephone (801) 538-3800

CERTIFICATE OF MAILING

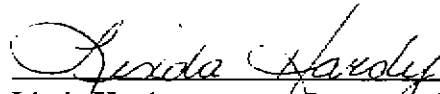
I do hereby certify that on this date I mailed, by regular mail, postage prepaid, a true and correct copy of the attached:

**STIPULATION  
&  
ORDER**

To the following:

**Affordable Business & Contractor  
Insurance Agency, Inc.  
101 E. Jefferson  
Phoenix, AZ 85034**

DATED this 16<sup>th</sup> day of March, 2005

  
Linda Hardy Insurance Technician  
Utah Department of Insurance  
State Office Building, Room 3110  
Salt Lake City, UT 84114-6901  
(801) 538-3813

**Invoice****Due Date** 04-16-2005**Amount Due**

\$1,000.00

**Invoice ID** 237595**Payor ID** 6181**Total Amount Remitted** \$

Make Checks Payable To:

**Utah Insurance Department****3110 State Office Building****Salt Lake City, UT 84114-6901**

AFFORDABLE BUSINESS & CONTRACTOR INSURANCE  
AGENCY, INC  
1010 E JEFFERSON  
PHOENIX AZ 85034

**Invoice ID** 237595**Payor ID** 6181**Invoice Print Date** 03-16-2005**Items:**

03-16-2005 Monetary Penalty Agency

1,000.00

**Amount Due..... \$1,000.00**